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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,992	11/21/2003	Robert Guld	10177	9114

7590 01/12/2007
National IP Rights Center, LLC
Suite 400
550 Township Line Road
Blue Bell, PA 19422

EXAMINER

THORNEWELL, KIMBERLY A

ART UNIT	PAPER NUMBER
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2128

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/12/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/718,992

Applicant(s)

GULD, ROBERT

Examiner

Kimberly Thornewell

Art Unit

2128

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.138(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-5 have been presented for examination.

Drawings

2. The replacement drawing of Figure 5 was received on 3/10/2004. This drawing is not acceptable because the replacement drawing has not been labeled as such, as set forth in 37 CFR 1.84(c).

Claim Objections

3. The preambles of claims 1 and 5 are objected to because they read as methods for calculating "an architectural criteria." However, "criteria" has been spelled in its plural form. Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 and 5 are incomplete because although the preambles of both independent claims are directed to calculating architectural criteria, the calculating is not part of the body of the claim. Therefore it is indefinite as to how the calculation is done. From the claim language,

it appears that the methods are directed to *determining* whether a building design meets an architectural criterion.

Furthermore, the second step of claim 1 reads:

“inputting a series of data relating to a building design such that the data input is compared to pre-stored parameters *and which determines* whether the building design meets the architectural criterion.”

Based on the Examiner's best interpretation of the claim language, it appears that the series of data determines whether the building design meets the architectural criterion. However, the data is related to the building design, and it appears as though the *comparison* of the input and parameters would determine whether the design meets the criteria. Clarification is requested.

Furthermore, the second step of claim 1 refers to comparing the inputted data to “pre-stored parameters.” It is unclear whether the Applicant is referring to the series of parameters placed in the computer program, as recited in the first step of the claim.

Claim 2 recites the limitation “the parameter” in line 1. There is insufficient antecedent basis for this limitation in the claim because previously the Applicant has only made reference to plural parameters.

Claims 3 and 4 are rejected by virtue of their dependence from claim 1.

Claim 5 suffers similar deficiencies to that of claim 1 in that the language of the second step of the claim is awkward. It is unclear as to what exactly determines whether the parameters meet the criteria. Again, clarification is requested.

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claims 1-5 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 1 results in data being input and comparing it to parameters. Because the comparison is performed within the confines of a computer and fails to produce a real-world application, a tangible result is not achieved by this step. Furthermore, no functional descriptive material is used in any of claims 1-5 to provide a useful, concrete, and tangible result.

Furthermore, all of claims 1-5 are directed to software, per se. On page 5 of the specification, the invention has been embodied in an AutoCAD program run on the Internet, and also on page 7 as software run in a PDA.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Hartsog, US Patent no. 4,964,060.

As per claim 1,

Hartsog discloses a method for calculating architectural criteria comprising the following steps:

- Placing in a computer program, a series of parameters (*"standards," column 3 line 66-column 4 line 2*) which are related to an architectural criterion (*"code requirements," column 4 lines 48-53*); and
- inputting a series of data relating to a building design such that the data input is compared to pre-stored parameters and which determines whether the building design meets the architectural criterion (*questions, i.e. design data, and answers, i.e. non-compliances, column 4 lines 46-56*).

As per claim 2,

Hartsog discloses the parameter comprising an occupancy limitation (**column 17 lines 5-13**).

As per claim 3,

Hartsog discloses the criterion being related to the possible area and height of the building (**column 15 lines 33-43**).

As per claim 4,

Hartsog discloses the criterion relating to the required wall separation rating between different occupancies (*boundary/fill methods, column 20 lines 56-60*).

As per claim 5,

Hartsog discloses a method for calculating architectural criteria for a building comprising the following steps:

- storing in a computer program, a series of building parameters ("*standards*," **column 3 line 66-column 4 line 2**) which are related to architectural criteria ("*code requirements*," **column 4 lines 48-53**);
- inputting a series of data from a project related to the building parameters such that the data input is compared to the criteria and which determines whether the building parameters meet the criteria (*questions, i.e. design data, and answers, i.e. non-compliances*, **column 4 lines 46-56**); and
- providing an output indicative of whether the criteria are met or are not met (**column 4 lines 6-12**).

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- US Pregrant Pub. 2002/0116239, by Reinsma et al., published 8/22/2002.
- US Pregrant Pub. 2004/0073410, by Maly et al., filed 10/15/2002.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly Thornewell whose telephone number is (571)272-6543. The examiner can normally be reached on 9am-5:30pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kamini Shah can be reached on (571)272-2279. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Patent Examiner
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KAT


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SUPERVISORY PATENT EXAMINER